

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF WEST VIRGINIA  
AT CHARLESTON

JOHN A. WHITT,

Petitioner

v.

CIVIL ACTION NO. 2:10-0009

[ADMINISTRATOR,  
South Central Regional Jail],

Respondent

MEMORANDUM OPINION AND ORDER

On February 24, 2010, the court denied relief to petitioner respecting a paper he filed on January 4, 2010, that was construed by the Clerk as a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241.

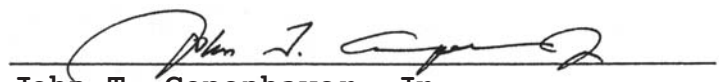
The court has now considered whether to grant a certificate of appealability. See 28 U.S.C. § 2253(c). A certificate will not be granted unless there is "a substantial showing of the denial of a constitutional right." Id. § 2253(c)(2). The standard is satisfied only upon a showing that reasonable jurists would find that any assessment of the constitutional claims by this court is debatable or wrong and that any dispositive procedural ruling is likewise debatable.

Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000); Rose v. Lee, 252 F.3d 676, 683-84 (4th Cir. 2001).

It is settled that a section 2241 petition must be brought in the district where the petitioner is incarcerated. See 28 U.S.C. § 2241(a); In re: Jones, 226 F.3d 328, 332 (4th Cir. 2000) ("A habeas petition under § 2241 must . . . be filed in the district in which the prisoner is confined."). Petitioner concedes that he is no longer incarcerated in this district. Consequently, the court concludes that the standard governing the issuance of a certificate of appealability is not satisfied in this instance. The court, accordingly, ORDERS that a certificate of appealability be, and it hereby is, denied. Pursuant to Rule 11, Rules Governing § 2254 Cases, petitioner may not appeal the denial but may seek a certificate from the court of appeals under Federal Rule of Appellate Procedure 22.

The Clerk is directed to forward copies of this written opinion and order to the pro se petitioner, all counsel of record, and the United States Magistrate Judge.

DATED: March 2, 2010

  
John T. Copenhaver, Jr.  
United States District Judge